Japan Brief on Carbon Finished Flat-Rolled Products

EXECUTIVE SUMMARY

As the President considers his decision in this case, it makes no sense to impose a remedy that will not truly benefit the domestic industry, and will instead only impose needless costs on an economy already in recession. Rather, the President should identify the precise problems, and focus his actions on those problems. This submission explains why the President should take no action on finished flat-rolled steel products -- plate, hot-rolled steel, cold-rolled steel, and coated steel – or, at the very most, should impose only anti-surge quotas based on average import volume during the 1998-2000 period.¹

The best course of action for these finished flat-rolled steel products would be no action. Notwithstanding the ITC injury determination in this case, the underlying record demonstrates that imports are not the most important cause of the problems facing the domestic industry. The President should recognize that the finding of a single "like product" consisting of all flat-rolled steel represents a fiction designed to avoid the inconvenient fact that for many categories of finished flat-rolled steel, imports have been declining, not increasing. The standards under both U.S. law and international law have not yet been met.

- Import surges are a thing of the past. In the first ten months of 2001, imports of finished flat-rolled steel products were at record lows down 28 percent from 1996, 60 percent from 1998, when imports peaked, and 40 percent from 2000.
- The ITC determination ignored AD/CVD orders covering flat-rolled steel imports from 40 country-product combinations, which have severely constrained, if not eliminated, imports from these sources.
- The ITC determination also ignored evidence showing that domestic prices often undersold import prices and in fact led prices down for many finished flat-rolled products.
- All economic analyses demonstrate that import restraints, whether tariffs or
 quotas, would increase domestic steel prices no more than two percent. This is
 unsurprising given the domestic industry's 90 percent market share and the
 shielding effect of AD/CVD orders.
- The U.S. Government acknowledged in a recent report to the OECD that low
 prices have resulted primarily from weak demand and excess domestic capacity.
 Even if imports were eliminated, these two factors would prevent prices and
 capacity utilization from increasing significantly.

The President should impose no remedy for slab or tin mill products. Domestic producers themselves are dependent on slab imports and three of four Commissioners who examined tin mill products separately rendered negative injury determinations.

 Numerous steel users testified to the ITC that draconian import protection would force them to close or move factories abroad, potentially eliminating eight jobs for each steel job preserved, according to a recent economic analysis. Job losses would be particularly concentrated in states such as Florida, Georgia, North Carolina, and Wisconsin.

It is implausible to argue that declining levels of imports meet the threshold for applying safeguards relief under both U.S. law and international obligations: a significant and sudden increase in imports. It is also implausible that slumping imports levels that often oversold domestic prices are more important than any other cause of the domestic industry's problems. The industry's current problems simply cannot be blamed on an increase in imports that took place three years ago.

It is apparent that the Administration understands these economic realities. The recent U.S. Government report to the OECD on steel reflects economic reality far better than the ITC Report in this case, noting:

- Traditional integrated steel producers have suffered from increased domestic competition from more efficient minimills, which benefit from a non-union workforce and a lower-cost technology.²
- The strong dollar, high energy costs, and expensive labor agreements have made U.S. producers among the world's highest cost steel producers.³
- The relative fragmentation of the U.S. industry has reduced its global competitiveness. Crushing legacy and retiree health care costs have prevented consolidation.⁴
- The industry's failure to retire inefficient capacity -- estimated at 13 to 17 million tons⁵ -- even as minimills commissioned new capacity has triggered repeated domestic steel supply "gluts."
- A certain level of imports is necessary for the health of the U.S. economy and the steel industry itself. Imports were high in 1998, but "fell considerably" by 2001 due to AD/CVD relief and slumping demand.⁷

U.S. Government Report, "OECD Follow-Up to Special Meeting at High-Level on Steel Issues, December 17, at 9, 12 ("OECD Report"), from *Inside U.S. Trade*, <<www.insidetrade.com>>.

³ *Id.* at 12-13.

⁴ *Id.* at 14, 23-24.

⁵ "U.S. Deliberates on Steel Industry Legacy Costs, OECD Paper Says," *Inside U.S. Trade*, December 28, 2001.

⁶ OECD Report at 15, 17.

⁷ *Id.* at 13-14.

This more balanced diagnosis of the domestic industry's ills recognizes that the most important contributors to the industry's troubles have nothing to do with imports.

At most, the record shows that past increases in import volume may have once exacerbated the larger problems facing the domestic industry. But old increases in imports cannot justify Section 201 relief. Indeed, those increases were already addressed through the industries' AD/CVD petitions and, where appropriate, ultimate imposition of AD/CVD orders. If any import protection were justified, however, it should seek to prevent future import surges. Our recommended remedy of anti-surge quotas targets this specific problem, while minimizing collateral damage to the economy:

- A quota remedy would address the very problem repeatedly identified by domestic producers throughout the proceeding: sudden increases in import volume of unpredictable magnitude.
- Quotas based on the historic, average level for 1998 to 2000 would substantially
 roll back imports from peak levels, especially if AD/CVD orders continue and
 would render many quotas unfillable. Country-specific quotas should be
 allocated to the top ten source countries, or countries representing two-thirds of
 import volume, to avoid large global quotas that would encourage import surges
 at the beginning of each quota period.
- Quotas would enable the domestic industry to significantly boost revenue when demand begins to recover in 2002.
- Quotas would minimize the adverse impact of trade restrictions on steel users, avoiding the huge cost of an import-preclusive 20 percent tariff remedy, which one respected economist has put at four times the benefit of such a remedy to the steel industry.
- The economic damage inflicted by any import remedy would be compounded if the remedy does not include product exclusions and a short supply provision to ensure continued access for products not made domestically.
- The dramatic consolidation necessary for the domestic industry's revival would permit consolidated firms to abuse their market power in the absence of import competition. Quotas limiting imports to historic levels would prevent such abuses, but import-preclusive tariffs would not.

The recommendation for high tariffs by several Commissioners ignores the fact that imports have little to do with currently depressed steel prices. Imports plummeted in 2001 due to weak demand and comprehensive AD/CVD relief. U.S. steel prices, though depressed,

Gary Clyde Hufbauer and Ben Goodrich, "Time for a Grand Bargain in Steel?," Institute for International Economics Policy Brief, January 2002, at Table 5 (20 percent tariff results in \$592 million gain to industry and \$2.4 million loss to consumers.) (available at www.iie.com/policybriefs/news02-1.htm).

still remain among the world's highest. A 20 percent tariff would largely shut imports out of the U.S. market. This is verified by the 19 percent out-of-quota tariff rate on line pipe, which caused subject imports to decline by almost 80 percent. The ITC's economic analysis in that case predicted only a 38 percent decline, suggesting that its analysis in this case⁹ is similarly conservative. The elimination of remaining imports would do little to lift prices and capacity utilization rates. There is just too much domestic capacity chasing too few domestic customers.

We submit that under such circumstances, an anti-surge quota is the import remedy that makes the most sense for the domestic industry. The remedy should take the following form:

Summary of Japan's Anti-Surge Quota Remedy Recommendation

<u>Feature</u>	Reason
Quota baseline based on average annual import volume over 1998-2000 period	U.S. law and international obligations require quotas based upon the most recent, representative period. Prevents future import surges, given that high past import levels are the avowed problem. Quotas would roll-back import share if AD/CVD orders remain in place.
Product- and country- specific quotas	Prevents the country and product shifting concern identified by domestic industry. A tariff remedy, on the other hand, would spur imports from the lowest-cost exporters (country shifting) and imports of products not covered by AD/CVD orders (product shifting).
Quota allocations for largest suppliers of each product	Quotas for the top ten suppliers, for example, would extend country-specific quotas to 70-80 percent of import volume. Ensures a steady flow of imports, whereas over-inclusive global quotas would result in import surges at the beginning of each quarter.
Two or three year remedy period	Given projections of a strong demand recovery beginning in 2002, anti-surge quotas over a two or three year period would yield additional revenues to fund a positive adjustment to import competition.
Quota growth based on demand	Quotas should grow at same rate as projected demand growth, to minimize the potential for shortages while limiting the import share of demand growth. Current estimates call for six percent growth.

Such a remedy would ensure that domestic producers benefit fully from the inevitable demand and price recovery. At the same time, such a remedy would largely avoid the economic shock to steel users who depend on imports for many products that otherwise would not be commercially

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The ITC still has not released its economic memorandum to the parties, either publicly or under APO. Thus, we are unable to comment in detail on the ITC's underlying analyses due to this most troubling lack of transparency.

available in sufficient quantities or at sufficient quality in the United States. Such a remedy would make more economic sense than continued imposition of AD/CVD orders. In a recession, it makes no sense to encourage steel-using industries to shift their jobs offshore to remain internationally competitive.

At the same time, efforts to improve the current situation of the domestic industry should focus on the sources of the problems. The Administration should continue its efforts to eliminate economically inefficient capacity, both domestically and internationally. The Administration should also work to eliminate barriers to domestic consolidation, which will allow market forces to rationalize excess and inefficient U.S. capacity. The domestic industry will only be able to positively adjust to import competition if it stops scapegoating imports, and resolves its own longstanding structural problems.